

(2013) 11 SC CK 0041

In the Supreme Court Of India

Case No : Writ Petition (Civil) No. 150 of 1997

c

Date of Decision : 27-11-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 19, 21, 32

Citation : (2014) 1 AWC 610 : (2013) 14 SCALE 475

Hon'ble Judges : V. Gopala Gowda, J;G.S. Singhvi, J

Bench : Division Bench

Advocate : E. C. Vidya Sagar

Final Decision : Disposed Of

Judgement

G.S. Singhvi, J.—The legislature of Uttar Pradesh enacted the U.P. Industrial Area Development Act, 1976 (hereinafter referred to as "the 1976 Act") for planned development of industrial and residential areas in the State. For achieving that object, the State Government constituted New Okhla Industrial Development Authority ("NOIDA"). Thereafter, a new township was established near the capital of the country. Unfortunately, allotment of land and plots in the new township have become subject matter of innumerable controversies and generated huge litigation in the Allahabad and Delhi High Courts and this Court.

2. NOIDA Entrepreneurs Association filed the above noted writ petition under Article 32 of the Constitution by way of public interest litigation (PIL) for enforcement of their rights guaranteed under Articles 14, 19 and 21 of the Constitution. It pleaded that the very object of creating NOIDA has been defeated because of major land scandals and prayed that a thorough probe be ordered into the allotment of land and plots and the abuse of power by the functionaries of NOIDA.

3. On 7.4.1997, this Court gave liberty to the Petitioner to file amended writ petition and to place before the Court facts on the basis of which the writ petition could be treated as a PIL. In furtherance of that order, the Petitioner filed amended petition. Thereafter, the Court issued notice dated 21.4.1997 on

following two issues:

(1) Issue writ of mandamus and/or any appropriate writ and direct CBI to investigate into all the land allotments and conversion of lands made by NOIDA during the past 10 years.

(2) Issue an appropriate writ and directions and frame guidelines for allotment of lands by NOIDA.

4. By an order dated 29.8.1997, the Court requested Dr. Rajeev Dhawan, learned senior counsel, who had been appearing for the Petitioner to act as amicus curiae. Dr. Dhawan graciously accepted the Court's request and for last 16 years he has rendered valuable assistance in deciding various issues.

5. During the pendency of the writ petition, the State Government constituted a Commission of Inquiry headed by Shri Justice Murtaza Hussain, a retired Judge of the Allahabad High Court. On 20.1.1998, this Court passed an order for production of various documents including the report of the Inquiry Commission and lists of the illegal and irregular allotments. Thereupon, the learned Amicus filed a compilation of documents containing the report of the NOIDA Inquiry Commission, a list of persons who were found by the Commission to be beneficiaries of irregular allotments and another list of plots and persons in respect of whom the Central Bureau of Investigation (CBI) had written to the State Government.

6. In the meanwhile, the State Government referred the complaints of alleged irregularities by some of the official Respondents and Shri S.C. Tripathi to the Chairman, Board of Revenue. The report of the Chairman was filed before this Court on 31.8.1998.

7. After considering the affidavits and documents filed by the learned Amicus, the CBI and the State Government, the Court appointed one man Commission of Shri Justice K.T. Thomas (former Judge of this Court). Justice Thomas submitted report dated 19.10.2005 which revealed large scale irregularities in the allotment of land and plots. On 1.5.2006, the learned Amicus filed submissions on the report of Justice K.T. Thomas Commission and responses of various parties. Thereafter, detailed order was passed qua Respondent No. 7.

8. On 9.2.2009, a three Judge Bench passed separate orders on various I. As. but deferred consideration of the cases of Ms. Neera Yadav and her two daughters, viz., Ms. Sanskriti Yadav and Ms. Suruchi Yadav. Thereafter, the Court passed order dated 31.3.2009 and directed that all the I. As. relating to allotment of plots by NOIDA shall be dealt with by NOIDA expeditiously and decided within a period of six weeks of the date of filing of representation by the applicants.

9. On 1.10.2010, the Court passed the following order:

Heard learned Amicus Curiae as well as other counsel for the parties.

All the applicants are permitted to approach NOIDA within a period of two weeks from this date. If such applications are filed, without reference to the earlier orders/directions of this Court, NOIDA is free to pass appropriate orders considering the eligibility/entitlement after affording opportunity to the parties concerned within a period of three months thereafter. With these directions, interlocutory applications are disposed of accordingly.

It is made clear that if any person is aggrieved in respect of the order passed by the NOIDA, he/she will be free to approach the High Court to vindicate his/her grievance.

List these matters for final disposal in the first week of February, 2011.

10. On 2.2.2011, 9.2.2011 and 29.4.2011, a two Judge Bench heard arguments on the question whether a direction be issued to the CBI to make preliminary investigation against Shri Ravi Mathur, who held the post of Chief Executive Officer, NOIDA. That question was finally decided vide order dated 9.5.2011 - NOIDA Entrepreneurs Association v. NOIDA (2011) 6 SCC 508

11. Thereafter, the case was taken up on 3.11.2012 for consideration of following two issues:

1. Continuation of the interim orders passed by this Court, and
2. Request made by Senior Superintendent of Police, CBI-ACU-IV, New Delhi for supply of the Report submitted by Shri A.P. Singh, the then Chairman, Board of Revenue, Lucknow, U.P.

Learned Counsel representing NOIDA sought time to place before the Court a comprehensive statement containing the status of various applications pending before NOIDA. He was allowed to do so.

12. Thereafter, an affidavit of Shri S.C. Gupta, Manager in NOIDA was filed. The Court did not feel satisfied with that affidavit and directed NOIDA to file a statement showing the status of various pending applications.

13. In compliance of the directions given by the Court, one more affidavit was filed by Shri Pradeep Dutt Sharma, Residential Department, NOIDA but the Court did not feel satisfied with that affidavit and directed the Chief Executive Officer, NOIDA to file his own affidavit. Thereafter, Shri Rama Raman, the then Chief Executive Officer, NOIDA filed affidavits dated 29.1.2013, 18.4.2013, 8.5.2013 and 13.6.2013. The counsel assisting the learned amicus submitted report and response to affidavit dated 18.4.2013 and a note on affidavit dated 13.6.2013.

14. While Shri U.U. Lalit, learned senior counsel for NOIDA relied upon orders dated 20.5.2013 passed by NOIDA in the cases of Shri Shyam Narayan Mishra, Ms. Suruchi Yadav, Ms. Sanskriti Yadav, Mrs. Neera Yadav, Shri Rajiv Kumar, Shri Shankar Sitapati, Shri Ram Kishore Pal, Shri Rajesh Singh, Shri Shrawan Kumar Pal, Shri Sanjiv Kumar Rawat and M/s. Flex Engineering Ltd., annexures filed with affidavits dated 29.1.2013, 18.4.2013, 8.5.2013 and 13.6.2013 and

submitted that the matter may now be closed because in all the cases, the competent authority has already passed orders in compliance of the directions given by the Court, Dr. Rajeev Dhawan, learned Amicus termed the action taken in the cases of Shri Shyam Narayan Mishra, Ms. Suruchi Yadav, Ms. Sanskriti Yadav, Mrs. Neera Yadav, Shri Rajiv Kumar, Shri Shankar Sitapati, M/s. Pax Hightech Services Pvt. Ltd., M/s. Flex Industries Ltd., and M/s. Flex Engineering Ltd. (now M/s. UFlex Ltd.) as an eyewash and vitiated due to malafides. Learned Amicus argued that once conversion of the plots of Ms. Suruchi Yadav, Ms. Sanskriti Yadav, Mrs. Neera Yadav, Shri Rajiv Kumar and Shri Shankar Sitapati was cancelled, there could be no justification for allotment of plots to them equivalent to the plots initially allotted. Learned Amicus emphasised that NOIDA has not given any explanation as to what action was taken in the case of Shri Shyam Narayan Mishra, who was found guilty of committing fraud leading to cancellation of the allotment and wondered how fresh allotment could be made to various persons after cancellation of conversion. Dr. Dhawan further submitted that the allotment made to the same group of industries, viz., M/s. Flex Industries Ltd., and M/s. Flex Engineering Ltd. is ex-facie illegal because law does not permit allotment of more than one plot to the same person. He also invited the Court's attention to the report and response to affidavit dated 18.4.2013 of Shri Rama Raman and pointed out that a number of original plots remained un-allotted despite the fact that conversion had been cancelled.

15. We have considered the respective submissions and find merit in Dr. Dhawan's criticism of the decision taken by NOIDA in cases of large number of persons including Ms. Suruchi Yadav, Ms. Sanskriti Yadav, Mrs. Neera Yadav, Shri Rajiv Kumar, Shri Shankar Sitapati and M/s. Flex Industries.

16. The arbitrary character of the action taken by NOIDA is demonstrated by the fact that even though Mr. Rajiv Kumar did not want alternative plot, NOIDA has offered him alternative plot. The 1976 Act and the rules framed thereunder do not postulate conversion of plot allotted in one category to the other. What is most surprising is that originally plot No. B-88/51 measuring 450 sq. meters was allotted to Ms. Suruchi Yadav but the same was converted into plot No. A-32/44 apparently because the land in Sector-44 was more costly. In the case of Ms. Sanskriti Yadav, plot No. B-73/44 was allotted under Scheme 1994(II) and within 2 months and 12 days the same was converted into plot No. A-33/44. In the case of Mrs. Neera Yadav, original allotment was made on 8.4.1994 in Sector-32 under Scheme 1994(I) and on the next day it was converted into plot No. 26 of Sector-14A having an area of 450 sq. meters. In the case of Shri Rajiv Kumar, the original allotment was in Sector-51 of a plot measuring 450 sq. meters under Scheme 1994(III) but soon thereafter it was converted to plot No. 27/14A. M/s. Flex Industries Ltd. was allotted land in Group Housing Sectors-11 and 51. The CBI found that the allotment was an end product of conspiracy. Another plot was allotted to Shri Amar Singh in the name of M/s. Flex Industries Ltd. The original allotment was of plot No. B-126, Sector-44 and it was converted into plot No. C-218, Sector-44.

17. Therefore, we direct that notices be issued to all the persons named in paragraph 16 to show cause as to why allotments/alternative allotments made in their favour may not be quashed. The notices are made returnable in 10 weeks. The same be served upon all the persons through Chief Executive Officer, NOIDA.

18. The persons to whom notices are served may file their reply affidavits within next six weeks and the case be listed before the Court after 16 weeks.